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September 30, 2013

BY ECF

The Honorable Shira A. Scheindlin
United States District Court
Southern District of New York
500 Pearl Street, Room 1620
New York, New York 10007

Re: *In Re Gerova Financial Group, Ltd. Secs. Litig.*, No. 11-MD-2275 (SAS)
Russo v. Gerova Financial Group, Ltd., No. 11-CV-2737 (SAS)
Arar v. Gerova Financial Group, Ltd., No. 11-CV-3081 (SAS)
Hanan v. Gerova Financial Group, Ltd., No. 11-CV-7107 (SAS)

Dear Judge Scheindlin:

This firm represents Michael Hlavsa, a defendant in the above-referenced actions. I write on behalf of Mr. Hlavsa, as well as counsel for Defendants Gary Hirst and Tore Nag (the "Individual Defendants"),¹ with regard to the parties' pre-trial conference scheduled for 5:00 p.m. today, September 30, 2013. Based on our communications with JAMS mediator Michael Young, we understand that the parties continue to make progress toward reaching a settlement, and negotiations remain ongoing, however, to date, no agreement in principle has been reached.

During our last conference on August 29, 2013, you indicated that you would begin setting a pre-trial schedule if the parties had not reached an agreement in principle to resolve these actions before today's conference. We request that, before setting a schedule, the Court

¹ Mr. Nag is only a defendant in one of the cases, *Hanan v. Gerova Financial Group, Ltd., et al.*, 11-CV-7107 (SAS).

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permit the Individual Defendants to move to stay the actions as to Messrs. Hlavsa, Hirst and Nag.

As set forth in my July 11, 2013 letter to the Court, Gerova Financial Group Ltd. ("Gerova"), the entity with whom the Individual Defendants were affiliated, is involved in an insolvency proceeding. Indeed, the United States Bankruptcy Court for the Southern District of New York has recognized Gerova's foreign insolvency proceeding as a foreign main proceeding and ordered the continued stay of litigation against Gerova, including the claims asserted against Gerova by plaintiffs in this case. See In re Gerova Financial Group, Ltd., 12-br-13641 (Bankr. S.D.N.Y.) (ALG) (Docket Entry 29). Similarly, an involuntary bankruptcy petition was granted against one of the partnerships relating to Stillwater and a Chief Restructuring Officer was appointed to oversee that partnership. We believe these proceedings and the attendant stay against Gerova (and possible stay against Stillwater) should result in a stay against Messrs. Hlavsa, Hirst and Nag. Gerova and Stillwater are indispensable parties that control relevant documents and assets at the heart of the dispute between Plaintiffs and Defendants, and therefore, a stay is warranted. See, e.g., Allstate Life Ins. Co. v. Linter Group Ltd., 994 F.2d 996, 998-1000 (2d Cir. 1993); Smith v. Dominion Bridge Corp., 96-civ-7580, 1999 WL 111465, at *2-*5 (E.D. Pa. March 2, 1999) (motion to stay granted in securities fraud actions for non-debtor individual officers and directors based on filing of foreign insolvency petition). Accordingly, before the Court considers setting a new pre-trial schedule, we respectfully request the opportunity to brief the issue of whether this case should be stayed as to Messrs. Hlavsa, Hirst and Nag.

We informed the Plaintiffs last week that we intend to request an opportunity to brief this issue and asked, in an effort to conserve resources, that they consent to the stay. Plaintiffs have not yet responded to our request.

Respectfully submitted,


Benjamin S. Fischer

cc: Counsel for parties in all above-captioned matters (via ECF)
Michael Young, Esq. (via e-mail)